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plants, like that in the principal case, presents a new phase of the question as to when delivery is completed, and it is difficult to determine where the carrier's duty of delivery ends. It has been held that a common carrier is not bound to deliver interstate freight on a private side-track. *McNeil v. So. R. R.* (1906) 202 U. S. 543. A railroad is not bound to deliver cars of livestock at a yard operated by a competing company, though directly connected therewith by its own tracks, and the power to make such an order does not exist under the Interstate Commerce Act. *Cent. Stockyards v. L. P. & N. R. R. Co.* (1904) 192 U. S. 568. Tracks privately constructed involving intricate connections between plant buildings are "plant facilities," and a railroad cannot lawfully compensate the consignees for the use of these tracks with the latter's own motive power. Such an allowance would amount to a rebate. *Crane Iron Works v. C. R. R. of N. Y.* (1910) 17 I. C. C. Rep. 514; *General Electric Case* (1908) 14 I. C. C. Rep. 237; *Karl Lumber Co. v. G. Ry. Co.* (1911) 20 I. C. C. Rep. 450. It would seem that the system of tracks operated by the defendants in the principal case, were within the term "plant facility" and, therefore, the company was not only not entitled to compensation from the railroad for hauling freight over them to their various buildings, but such an allowance would have been a rebate under the Interstate Commerce Act.

L. J. N.

CONSTITUTIONAL LAW—AUTOMOBILE REGISTRATION—DISCRIMINATION AGAINST NON-RESIDENT.—*KANE v. STATE OF NEW JERSEY* (1916) 37 SUP. CT. REP. 30.—The New Jersey automobile laws (1908) provided for the registration of all automobiles driven within the state. The registration fee was \$3.00 for machines of less than ten horsepower, \$5.00 for those of less than thirty, and \$10.00 for those of thirty or more. *Held*, that since the annual fees prescribed were not so large as to be unreasonable, this requirement was valid and not an unconstitutional discrimination against non-residents.

The highways of the state are primarily for public use, and the legislature has regulative control over them. *White Oak Coal Co. v. Manchester* (1909) 109 Va. 749. In the exercise of this power, the legislature may provide for the registration of vehicles and the payment of fees therefor. *People v. Schneider* (1905) 139 Mich. 673; *Buffalo v. Lewis* (1908) 192 N. Y. 193. The registration is a police regulation, partly for the purpose of identification. *Allen v. Smith* (1912) 84 Oh. St. 283; *State v. Mayo* (1909) 106 Me. 62. A reasonable fee is a license fee, not a tax. *Commonwealth v. Boyd* (1905) 188 Mass. 79. It follows that the constitutional requirements of uniform taxation do not apply. *In re Kessler* (1915) 26 Idaho, 764. The fees may be graded according to horse power instead of being *ad valorem*. *Matter of Schuler* (1914) 167 Cal. 282; *Bozeman v. State* (1913) 7 Ala. App. 151. Where the fee is reasonable in amount, it does not become a tax merely because a portion of the fund so raised is used to maintain and police the highways. *Jackson v. Neff* (1912) 64 Fla. 326; *In re William Hoffert* (1914) 34 S. D. 271; but see *Vernon v. Sec'y of State* (1914) 179 Mich. 157. Where non-residents are compelled to observe the same regulations as residents, there is

no discrimination against them which violates the federal constitution, for discrimination involves the placing of a heavier burden on the one, or the conferring of a special privilege on the other. *Home Ins. Co. v. New York* (1890) 134 U. S. 594; *Giozza v. Tiernan* (1893) 148 U. S. 657. For other New Jersey cases in point, see *Unwen v. State* (1906) 73 N. J. L. 529; *Cleary v. Johnston* (1909) 79 N. J. L. 49.

A. S. B.

CONSTITUTIONAL LAW—DUE PROCESS OF LAW—FOOD—REGULATION OF THE PERCENTAGE OF BUTTER FAT IN ICE CREAM.—*HUTCHINSON ICE CREAM CO. v. IOWA* (1916) 37 SUP. CT. REP. 28.—An Iowa statute prohibited the sale as ice cream of a product containing less than a fixed percentage of butter fat. *Held*, that the statute did not take property without due process of law, as the percentage required was, of itself, not unreasonable.

Statutes directed against adulteration of foods with deleterious substances have long been regarded as within the police power of the state. On this ground a recent decision holds that the sale of food preservatives containing boric acid may be prohibited by statute in order to protect the public health. *Price v. Illinois* (1914) 238 U. S. 446. As a further step in the protection of the public, other statutes have been sustained which aim at practices which deceive the buying public in regard either to quantity, nature, or ingredients of the article offered for sale, even where there is no doubt of its being wholesome. For example, North Dakota has been upheld in prescribing certain weights in multiples of which package lard must be sold. *Armour & Co. v. North Dakota* (1915) 240 U. S. 510. Likewise, it was held that the city of Chicago could regulate the amount of bread in bakers' loaves. *Schmidinger v. Chicago* (1912) 226 U. S. 578. Also, by Missouri, New York, and Illinois statutes, distilled vinegar may not be colored in imitation of the cider product. *State v. Earl* (1911) 152 Mo. App. 235; *People v. Spencer* (1911) 201 N. Y. 105; *People v. Wm. Henning Co.* (1913) 260 Ill. 554. Neither may oleomargarine be colored in imitation of butter. *People v. Guiton* (1912) 137 N. Y. S. 600. Many states provide a statutory minimum percentage of butter fat in all milk offered for sale. *State v. Schlenker* (1900) 112 Ia. 642; *Commonwealth v. Wheeler* (1910) 205 Mass. 384. In the principal case it was contended that ice cream is a compound and need not, if wholesomely made, contain milk or cream. On the ground of protecting the public from misrepresentation, even in compound food products, the Supreme Court of Michigan recently declared constitutional a statute under which sausage containing more than two per cent of cereal was treated as adulterated, although the adulteration was manifestly not deleterious. The principal case is representative of the modern tendency of the Supreme Court to sanction an ever-extending police power protection of the public against misrepresentation as well as against injury to health. It affirms the great weight of state authority and seems clearly correct. On a similar state of facts, however, see the contrary decision in *Rigbers v. City of Atlanta* (1910) 7 Ga. App. 411. Possibly the limitations of a city charter may be responsible for the view there taken.

M. S. B.